

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

SALINAS MARBLE

PLAINTIFF

v.

CIVIL ACTION NO. 2:23-cv-74-TBM-RPM

FORREST GENERAL HOSPITAL, *et al*

DEFENDANT

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on submission of the Report and Recommendation [12] entered by United States Magistrate Judge Robert P. Myers on September 26, 2023. Judge Myers recommends that the Plaintiff's claims be dismissed without prejudice for failure to prosecute. The Plaintiff has not filed an objection to the Report and Recommendation, and the time for filing an objection has expired.¹

"When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72(b) advisory committee's note to 1983 addition (citations omitted); *see Casas v. Aduddell*, 404 F. App'x 879, 881 (5th Cir. 2010) (affirming district court's dismissal of Section 1983 claims and stating that "[w]hen a party fails timely to file written objections to the magistrate judge's proposed findings, conclusions, and recommendation, that party is barred from attacking on appeal the unobjected-to proposed findings and conclusions which the district court accepted, except for plain error")


¹ Although the Report and Recommendation was returned as undeliverable on October 6, 2023, it does not change the Court's finding that the Plaintiff's claims should be dismissed without prejudice for failure to prosecute. Indeed, "[b]y not providing the court with his correct address, [plaintiff] has prevented the court from communicating with him and moving this case towards resolution. He has therefore failed to diligently prosecute this case. This case should therefore be dismissed without prejudice for want of prosecution." *Rasmus v. Director*, TDCJ-CID, No. 1:08-cv-409-MAC, 2008 WL 4899971, at *2 (E.D. Tex. Nov. 10, 2008).

(citing *Douglass v. United Serv. Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1)); *Douglass*, 79 F.3d at 1430 (affirming district court's grant of summary judgment). Having considered Judge Myers' Report and Recommendation, the Court finds that it is neither clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that the Report and Recommendation [12] entered by United States Magistrate Judge Robert P. Myers on September 26, 2023, is ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED AND ADJUDGED the Plaintiff's claims are DISMISSED WITHOUT PREJUDICE for failure to prosecute.

THIS, the 15th day of November, 2023.


TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE